

### **Remarks**

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The final Office Action dated September 28, 2005, indicated that the drawings are accepted; claims 7 and 8 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten; claims 1-4 and 9 are rejected under 35 U.S.C. § 102(b) over Chari *et al.* (U.S. Patent No. 4,428,046); and claims 5 and 6 are rejected under 35 U.S.C. § 103(a) over Chari.

Applicant appreciates the indication of allowability for claims 7 and 8, and the suggestions to overcome the objections to claims 4 and 9. Accordingly, Applicant has amended claims 4 and 9 to overcome these objections.

Applicant respectfully traverses each of the prior art rejections (35 U.S.C. § 102(b) and 35 U.S.C. § 103(a)) because the Examiner fails to present a reference or combination of references that corresponds to, or in any way addresses the issues of, the claimed invention. More specifically, the Examiner fails to identify where any of the cited references teach transferring data “in dependence on a pilot signal”. *See, e.g.*, claim 1 and the Specification at page 9, lines 26 *et seq.* The Examiner erroneously asserts that the flag bit from the ‘046 reference corresponds to Applicant’s claimed pilot signal. The ‘046 reference, however, does not contain any discussion of either a pilot signal or a signal of varying frequency. It would appear that the Examiner’s assertion is based upon a partial quote taken out of context from The Authoritative Dictionary of IEEE Standards and Terms for the term “pilot.” The Examiner’s asserts that a “pilot” is any signal that provides a reference and that the ‘046 flag bit provides such a reference. The full IEEE definition identifies that the reference is used for automatic gain or slope control: “a signal transmitted either inbound or outbound through [a] system in order to provide a reference for automatic gain or automatic slope control.” (“IEEE 100: The Authoritative Dictionary of IEEE Standards Terms, Seventh Edition.”). The ‘046 reference contains no mention of automatic gain or slope control or that the flag bit is used in connection with

either type of control. Thus, the Examiner fails to show how the '046 flag bit corresponds to the Examiner's proposed definition of a pilot.

Moreover, a skilled artisan would recognize that a pilot signal is not the type of signal as characterized by the examiner. For example, in several publications pilot signal is defined in connection with telecommunications as "usually a single frequency, transmitted over a communications system for supervisory, control, equalization, continuity, synchronization, or reference purposes." *See, e.g.*, <[http://en.wikipedia.org/wiki/pilot\\_signal](http://en.wikipedia.org/wiki/pilot_signal)>; <[http://www.absoluteastronomy.com/encyclopedia/p/pi/pilot\\_signal.htm](http://www.absoluteastronomy.com/encyclopedia/p/pi/pilot_signal.htm)>. In addition, the term "pilot signal" is used in the following patents directed to frequency dependent communications: US Patent No. 6,956,895 to Vihriala, discloses a pilot signal used in radio communications; US Patent No. 6,959,055 to Litwin *et al.*, discloses a pilot channel signal used in spread spectrum communications; US Patent No. 6,956,893 to Frank *et al.*, discloses a pilot signal used in code division multiple access (CDMA) communications; US Patent No. 6,956,837 to Lee, discloses a pilot signal used in mobile communications; US Patent No. 6,952,417 to Posthuma, discloses a pilot signal used in data communications, such as XDSL services. In contrast, the '046 flag bit has no varying frequency component; instead, it is a marker bit consisting of 1's or 0's. *See, e.g.*, '046 reference, column 3, lines 46-51. Thus, the '046 flag bits do not correspond to the claimed pilot signals, as readily recognized by one skilled in the art. Without a presentation of correspondence to each of the claimed limitations, the prior art (35 U.S.C. § 102(b) and 35 U.S.C. § 103(a)) rejections cannot be maintained. Accordingly, Applicant requests that each of the rejections be withdrawn.

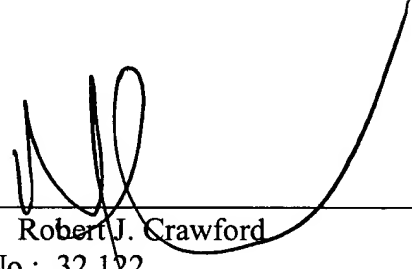
The Examiner also fails to present evidence of correspondence to various other claim limitations, including, a pilot signal generator (*e.g.*, claim 2) and a pilot signal evaluation circuit (*e.g.*, claim 3). Each of these claimed circuits is defined for performing one or more specific tasks as set forth in the claims. Without a presentation of evidence of correspondence, the Examiner fails to present a *prima facie* rejection and the rejections should be withdrawn.

As each of the independent claims includes limitations similar to those discussed above, the Examiner fails to present a *prima facie* rejection for any of the instant claims. Thus, Applicant requests that each of the rejections be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Mr. Peter Zawilski, of Philips Corporation at (408) 474-9063.

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Attached: Wikipedia [www.reference.com](http://www.reference.com) (definition: pilot), 2 sheets.